UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

_____

CDM SMITH INC.,   )
)
          Plaintiff,   )
v.   )
)   Case No. 1:21-cv-10249
ELANGOVAN THEVAR and NEER   )
TECHNOLOGIES INC.,   )
)
          Defendants.   )
_____)

JOINT REPORT PURSUANT TO FED. R. CIV. P. 26(f)

Pursuant to Fed. R. Civ. P. 16 and 26 and Local Rule 16.1, Plaintiff CDM Smith, Inc.

("CDM Smith") and Defendants Elangovan Thevar ("Thevar") and NEER Technologies, Inc.

("NEER") (collectively, "Defendants") state that counsel for the parties conferred on or about

November 7, 2022 and submit this joint statement.

a.   Joint Discovery and Pretrial Plan

The parties disagree as to how discovery should proceed. They set forth their respective

proposals below.

CDM Smith's Proposal

Pursuant to Fed. R. Civ. P. 26(d)(1) and Local Rule 26.2(a) either party may initiate

discovery after serving their Initial Disclosures Pursuant to Fed. R. Civ. P. 26(a)(1) and

conferring as required by Fed. R. Civ. P. 26(f). CDM Smith is willing to stay merits-based

discovery with respect to NEER pending the outcome of the Court's determination of personal

jurisdiction as to that Defendant. However, because the Court has already ruled that it has

jurisdiction over Thevar and in light of the fact that the Complaint in this matter was filed over

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twenty months ago on February 12, 2021, CDM Smith therefore wishes to commence merits-based discovery as to that Defendant.

CDM Smith proposes the following pre-trial schedule:

Event	Date
Parties to serve their Initial Disclosures Pursuant to Fed. R. Civ. P. 26(a)(1)	On or before date of Scheduling Conference
Parties to serve all written discovery requests	March 17, 2023
Deadline for amendment of pleadings and joinder of parties	April 28, 2023
End of fact discovery	July 28, 2023
Deadline for completion of all depositions, except expert depositions	July 28, 2023
Deadline for CDM Smith's Expert Disclosure	September 1, 2023
Deadline for Defendants' Expert Disclosure	October 6, 2023
Deadline for completion of expert discovery, including depositions	November 3, 2023
Deadline for filing motions pursuant to Fed. R. Civ. P. 56	December 1, 2023
Hearing on Motions pursuant to Fed. R. Civ. P. 56	TBD by Court
Final Pretrial Conference	TBD by Court

Thevar and NEER's Proposal

Defendants propose that discovery be phased, pursuant to Local Rule 26.3, with jurisdictional discovery preceding fact discovery, and fact discovery commencing after the Court resolves NEER's personal jurisdiction challenge. The Court's order of September 30, 2022 sets out an expedited schedule for the resolution of the jurisdictional issue, with jurisdictional discovery to be completed by December 30, 2022, with briefing on personal jurisdiction to be completed by February 17, 2023. The Court did not order the Parties to commence fact discovery or to appear for an initial discovery conference. The pleadings will not be closed until jurisdiction is determined, and it is the pleadings that will frame the issues for discovery. In addition, jurisdiction will determine whether NEER is to participate as a party or non-party in

discovery, which impacts cost shifting. Finally, no party will be prejudiced by a short delay in starting discovery.

Other Items

The parties agree that the discovery event limitations set forth in Local Rule 26.1(c) shall apply. Should either party desire additional discovery, the parties shall confer and the party seeking the additional discovery shall file a motion with the Court in accordance with Local Rule 26.2. The parties further agree that written jurisdictional discovery conducted pursuant to this Court's September 30, 2022 Order (Dkt. No. 23) shall not count toward the discovery event limitations, but that no party shall be prevented from using said discovery in connection with non-jurisdictional aspects of this litigation.

b. Local Rule 16.1 Statement

The parties will separately submit the required certifications pursuant to Local Rule 16.1(d)(3).

c. Consent to Trial by Magistrate Judge

The parties do not consent to trial by magistrate judge.

d. Settlement Proposal

Counsel for CDM Smith will present a written settlement proposal to Defendants no later than 14 days before the date for the scheduling conference pursuant to Local Rule 16.1(c).

e. Other Matters to be Discussed

Undersigned counsel (after consultation with their respective clients concerning computer-based and other electronic information management systems, including historical, archival, back-up, and legacy files, in order to understand how information is stored and how it may be retrieved) have discussed the disclosure and preservation of electronically stored

information, including, but not limited to, the form in which such data shall be produced, search terms, and/or other techniques to be used in connection with the retrieval and production of such information, the location and format of electronically stored information, appropriate steps to preserve electronically stored information, and the allocation of costs of assembling and producing such information. The parties agree to the following procedures for the preservation, disclosure, and management of electronically stored information (ESI):

      a. The parties will take all reasonable efforts to preserve proportional, relevant, and responsive ESI and suspend any routine computer operations which may automatically delete such relevant and responsive ESI. The parties may continue routine computer operations critical to ongoing activities, including the automatic creation and deletion or overwriting of non-relevant, non-responsive information;

      b. The parties will produce ESI that is proportional, relevant, responsive, not privileged, and not inaccessible as governed by the applicable Federal Rules of Civil Procedure, and any other applicable laws or regulations;

      c. Defendants have received plaintiff's counsel's "Preferred Production Specs" set forth in the attached Exhibit A.

      d. Nothing herein obligates Defendants to produce documents or to produce documents in any particular format, if not so required under the Federal Rules of Civil Procedure or the Local Rules of this Court, or waives the right to seek cost-shifting.

Undersigned counsel (after consultation with their clients) have also discussed the location(s), volume, organization, and costs of retrieval of information stored in paper or other

non-electronic forms. The parties agree to the following procedures for the preservation,

disclosure and management of such information:

a. The parties will take all reasonable efforts to preserve any unique, relevant, and responsive non-electronic discovery data ("Non-ESI"). To the extent an exact duplicate of Non-ESI is already preserved, the parties need not preserve such Non-ESI, provided, however, that Non-ESI is not an "exact duplicate" if it contains unique differences not found in other Non-ESI;

b. The parties will produce Non-ESI that is proportional, relevant, responsive, not privileged, and not inaccessible as governed by the applicable Federal Rules of Civil Procedure.

c. Undersigned counsel have discussed discovery procedures that minimize the risk of waiver of privilege or work-product protection, including procedures for asserting privilege claims after production. The parties agree to the following procedures for asserting claims of privilege after production:

The inadvertent production of any privileged or otherwise protected information

("Inadvertent Production Material") shall not be deemed a waiver or impairment of any claim of

privilege or protection, including but not limited to the attorney-client privilege or work-product

doctrine. If a receiving party becomes aware that it is in receipt of information or materials

which it knows or reasonably should know is Inadvertent Production Material, the receiving

party shall immediately take steps to (a) stop reading or inspecting the Inadvertent Production

Material, (b) notify the producing party of the Inadvertent Production Material, (c) collect all

copies (including summaries and excerpts) of the Inadvertent Production Material, (d) promptly

return to the producing party or destroy the Inadvertent Production Material and all copies, and

(e) otherwise comport itself with the application provisions of the Rules of Professional Conduct.

By complying with these obligations, the receiving party does not waive any right it has to

challenge the assertion of privilege and request an order compelling production of the

Inadvertent Production Material. The producing party bears the burden of establishing the

privileged nature of the Inadvertent Production Material.

Dated: November 21, 2022

PLAINTIFF, **CDM SMITH INC.,**	**DEFENDANTS,** **ELANGOVAN THEVAR and NEER** **TECHNOLOGIES INC.**
By its attorneys,	By their attorney,
/s/John L. Cordani, Jr. John L. Cordani, Jr. (*admitted pro hac vice*) Jcordani@rc.com ROBINSON & COLE LLP 280 Trumbull Street Hartford, CT 06103 Tel: (860) 275-8200	*/s/ Clark Freeman* Clark Freeman (BBO #691986) clark@solomoncramer.com Solomon & Cramer LLP 25 West 39th Street 7th Floor New York, NY 10018 (212) 884-9102
Julianna M. Charpentier (BBO #703286) jcharpentier@rc.com Robinson & Cole LLP One Boston Place, 25th Floor Boston, MA 02108-4404 (617) 557-5900	

EXHIBIT A

R+C Preferred Production Specs

We use Relativity as a document review platform and would like to receive data in the following format to most easily load to the software without the need to incur additional costs or time.

Load File Formats

Image Load File

      Image load files to be provided in Opticon .OPT format. This is a comma delimited file that has the following structure and fields;

PageID,VolumeID,ImageFilePath,DocumentBreak,BoxBreak,FolderBreak,PageCount

Sample Opticon .OPT file

```
SAMPLE00001,VOL001,.\VOL001\Images\IMG001\SAMPLE00001.TIF,Y,,,2
SAMPLE00002,VOL001,.\VOL001\Images\IMG001\SAMPLE00002.TIF,,,,
SAMPLE00003,VOL001,.\VOL001\Images\IMG001\SAMPLE00003.JPG,Y,,,3
SAMPLE00004,VOL001,.\VOL001\Images\IMG001\SAMPLE00004.JPG,,,,
SAMPLE00005,VOL001,.\VOL001\Images\IMG001\SAMPLE00005.JPG,,,,
SAMPLE00006,VOL001,.\VOL001\Images\IMG001\SAMPLE00006.TIF,Y,,,1
SAMPLE00007,VOL001,.\VOL001\Images\IMG001\SAMPLE00007.JPG,Y,,,3
SAMPLE00008,VOL001,.\VOL001\Images\IMG001\SAMPLE00008.JPG,,,,
SAMPLE00009,VOL001,.\VOL001\Images\IMG001\SAMPLE00009.JPG,,,,
SAMPLE00010,VOL001,.\VOL001\Images\IMG001\SAMPLE00010.TIF,Y,,,1
```

Metadata Load File

      Metadata to be provided in a Concordance .DAT file using the following delimiters;

Value	Character	ASCII Number
Column	¶	20
Quote	þ	254
Newline	®	174
Multi-Value	;	59
Nested Value	\	92

Sample Concordance delimited .DAT file

```
þBates Begþ¶þBates Endþ¶þBates BegAttþ¶þBates EndAttþ¶þDate Modþ¶þDate Sentþ¶þDate Receivedþ
þSAMPLE0001þ¶þSAMPLE0002þ¶þSAMPLE0001þ¶þSAMPLE0006þ¶þþ¶þ2016/04/01þ¶þ2016/04/01þ
þSAMPLE0003þ¶þSAMPLE0005þ¶þSAMPLE0001þ¶þSAMPLE0006þ¶þ2016/01/01þ¶þþ¶þþ
þSAMPLE0006þ¶þSAMPLE0006þ¶þSAMPLE0001þ¶þSAMPLE0006þ¶þ2016/02/20þ¶þþ¶þþ
þSAMPLE0007þ¶þSAMPLE0009þ¶þSAMPLE0007þ¶þSAMPLE0009þ¶þþ¶þ2016/03/27þ¶þ2016/03/27þ
þSAMPLE0010þ¶þSAMPLE0010þ¶þSAMPLE0010þ¶þSAMPLE0010þ¶þþ¶þ2016/04/05þ¶þ2016/04/05þ
```

14747931-v1

Metadata Fields

The metadata fields define the data being provided between parties and are contained within the Concordance delimited .DAT file.

Field Name	Sample Value	Field Description
BegBates	SAMPLE00001	Starting Bates number of document
EndBates	SAMPLE00004	Ending Bates number of document
BegBatesAttach	SAMPLE00001	Starting Bates number of first document in family
EndBatesAttach	SAMPLE00010	Ending Bates number of last document in family
Email To	John Smith [Jsmith@Sample.com]	Email Recipients
Email From	John Smith [Jsmith@Sample.com]	Email Sender
Email CC	John Smith [Jsmith@Sample.com]; Jane Smith [JaneSmith@Sample.com]	Carbon copy recipients
Email BCC	John Smith [Jsmith@Sample.com]	Blind carbon copy recipients
Email Subject	RE: Inventory Request	Subject line of email
InternetMsgID	412640CB-2298-4CF9-9353-E9BAEDD3EF49@Sample.com	Unique Internet Message ID value
AttachCount	3	Number of attachments in the family
Date/Time Sent	3/16/2015 2:11 PM	Date and time email was sent
Date/Time Created	1/1/2012 3:24 PM	Date and time document was created
Date/Time Last Modified	4/5/2014 8:53 AM	Date and time document was last modified
Sort Date	12/25/2020 11:00 PM	Date taken from Email Sent Date, Email Received Date, or Last Modified Date (in order of precedence) repeated for parent document and all children items to allow for date sorting
FileType	Outlook Message File	Description of the document from the Type metadata
DocExt	XLS	Document extension
File Name	Sample.PDF	Name of the native file as it existed originally
Author	Smith, John	Author of the document
MD5Hash	7AF54AC349701890B54F9FDA35BEAE99	MD5 Hash value that gets generated for the document

Custodian	Smith, John	Original owner of the document
Duplicate Custodian	Smith, John; Smith, Jane; Johnson, David	List of multiple original owners of the document if deduplication used
Time Zone	GMT	Time zone that the data was processed in
PageCount	5	Number of pages for the images being provided for this record
ProdVolume	VOL001	Name of the current production volume
NativeLink	.\VOL001\NATIVE001\SAMPLE00001.msg	Relative path to the native file being provided
TextLink	.\VOL001\TEXT001\SAMPLE00001.txt	Relative path to the extracted or OCR text of the native file

File Formats

Text Files
 Extracted or OCR text to be provided as separate multipage .txt files per record and each file should be named after the beginning Bates number of the associated record. The link for these files will be provided in the .DAT metadata load file as the field TextLink and populated with a relative path to the associated text file for each record. These files should be stored in a separate folder titled TEXT and each folder should not exceed 500 files.

Native Files
 Certain file types (Excel, database, audio or visual media, etc..) do not lend themselves to imaging and should be provided natively with a placeholder image associated with it that contains the Bates and any confidentiality. The link for these files will be provided in the .DAT metadata load file as the field NativeLink and populated with a relative path to the associated text file for each record. These files will be named after their Bates number and stored in a separate folder titled NATIVES and each folder should not exceed 500 files.

Image Files
 Black and white image files should be provided as Group IV single page TIFF files named after the Bates number on each page. Color image files should be provided in JPEG format. These files will be stored in a separate folder titled IMAGES and each folder should not exceed 500 files.